share of such advances; the promise to indorse his notes being broken. McLennan, P. J., and Robson, J., *dissenting.*

The law does not favor forfeitures and it does not treat the mere failure of one partner to pay his share of the capital, expenses or debts, as a cause for forfeiting his interest in the firm property. *Kimball v. Gearhart,* 12 Cal., 27. Such a failure will not justify his co-partners in exercising the powers of a court of equity and ejecting him from the partnership. *Campbell v. Sherman,* 55 Hun., 609; *Patterson v. Silliman,* 28 Pa., 304. It is the duty of the partners to conform in all respects to the partnership agreement. *Murrell v. Murrell,* 3 La. Ann., 1233. And no majority of the partners can expel any partner in the absence of an express agreement between the partners; however, where there is such power it can only be exercised in good faith and not for private benefit of any of the parties. *Blisset v. Daniel,* 10 Hare, 493. A partner will not be deprived of his just profits when he was unable to fulfill part of his agreement for reasons beyond his control. *Stuart v. Harmon,* 24 Ky. L. R., 1829. For the obligation of good faith rests upon the partners not only during partnership, but extends to statements and dealings made while negotiating for its formation. *Williamson v. Monroe,* 101 Fed., 322.

TIME—CONSTRUCTION OF STATUTE—SUNDAYS.—GULF, C. & S. F. RY. CO. V. LOUIS WERNER STAVE CO., 131 S. W., 658 (TEX.).—*Held,* that where a statute requires an act to be performed within a certain number of days or hours, and does not expressly exclude Sunday in computing such time, the court cannot construe it so as to exclude Sunday, so that a statute, imposing a penalty on shippers for failure to load within 48 hours after the delivery of cars, should under such rule be construed to include Sunday within the time provided.

At common law Sunday was *dies non juridicus. Allen v. Godfrey,* 44 N. Y., 433; *Blood v. Bates,* 31 Vt., 147. And in general, in computing time for the performance of a contract, etc., the last day for performance falling on Sunday, an extension until Monday is allowed. *Avery v. Stewart,* 2 Conn., 69; *Salter v. Burt,* 20 Wend. (N. Y.), 205. *Contra: Pearpoint v. Graham,* 4 Wash. C. C., 241. But where the length of time for performing an act is expressly provided by statute, the weight of authority is in accord with the principal case, holding that no extension is allowed. *Bissell v. Bissell,* 11 Barb. (N. Y.), 96; *Alderman v. Phelps,* 15 Mass., 225; *Patrick v. Faulke,* 45 Mo., 312. Some states, however, hold the contrary. *Edmunson v. Wragg,* 104 Pa., 500. And this contrary doctrine has been modified somewhat, it being held that if an act may be lawfully done on Sunday, the last day falling on Sunday, it is not excluded. *Swift v. Wood,* 103 Va., 494. But it is well settled that in any case intermediate Sundays are included in the computation of such time. *Martin v. Sunset Telp. & Telg. Co.,* 18 Wash., 260.

USURY—PAROL EVIDENCE—WRITTEN CONTRACT—VALIDITY.—IN RE STRASCHNOW, 181 FED., 337.—*Held,* that where a contract evidencing a

loan of money and the employment of the lender was attacked for usury, parol testimony of the conversations of the parties prior to the execution of the contract was not objectionable on the ground that all prior negotiations must be deemed merged in the written contract.

In the Federal courts and in many of the state courts it is held, in usurious contracts, that the intention of the parties is the controlling factor. *Miller v. Tiffany,* 1 Wall., 298; *Dickenson v. Edwards,* 77 N. Y., 573; *Pancoast v. Travelers' Ins. Co.,* 97 Ind., 172. It is quite immaterial in what manner or form, or under what pretence it is cloaked, if the intention was to receive a greater rate of interest than the law allows for the use of money, it will vitiate the contract with the taint of usury. Whether the transaction was so intended, where, upon its face, it does not appear to be usurious, is a question of intention for the decision of the jury. *Mitchell v. Napier,* 22 Tex., 120. Payroll evidence is admissible to explain, but not to vary or contradict writings. *Cooper v. Berry,* 21 Ga., 526. Any evidence surrounding and so connected with a transaction as to throw light upon it and disclose, or tend reasonably to show, its true character, is admissible upon the issue of usury, although the contract is in writing and appears upon its face fair and legal. *Peightal v. Building Co.,* 25 Tex. Civ. App., 390. While a valid written contract can not be varied or contradicted by parol, it is competent by such evidence to show that the writing is but a cover for usury, penalty, or forfeiture. *Lytle v. Scottish American Mortgage Co.,* 122 Ga., 458; *Campbell v. Corinable,* 98 N. Y. Supp., 231. Parol testimony is admitted to enable one to show that a written instrument is not valid, but void. *Lytle v. Scottish American Mortgage Co.,* 122 Ga., 458.

WITNESSES—PRIVILEGED COMMUNICATIONS—HUSBAND AND WIFE.—PEOPLE V. DUNNIGAN, 128 N. W., 180 (MICH.).—*Held,* that a self-incriminating letter written by accused to his wife, but not received by her, being intercepted by the sheriff, is not privileged within the statute which prohibits examination of spouses respecting communications between them.

It is a well established rule, both at common law and by statute, that confidential communications between the husband and wife are privileged, in both civil and criminal proceedings, except where they themselves are parties to the action. *Hopkins v. Grimshaw,* 163 U. S., 342; *People v. Warner,* 117 Cal., 637. And, as a general rule, letters passing between husband and wife are protected. *State v. Ulrich,* 110 Mo., 350. However, it has been held generally, as in the principal case, that where a self-incriminating letter falls into the hands of third parties it may be offered in evidence, not being privileged. *State v. Hoyt,* 47 Conn., 518; *State of Kansas v. Buffington,* 20 Kans., 599. *Contra*: *Wilkerson v. State,* 91 Ga., 729. And the mere fact that it was procured by the falsehood of a public officer will not exclude it. *Com. v. Goodwin,* 186 Pa. St., 218. Furthermore, a confidential, oral communication between a husband and wife may be testified to by a concealed witness. *Gannon v. State of Ill.,* 127 Ill., 507; *Com. v. Griffin,* 110 Mass., 181. However, if the confession, written or oral, was obtained in an attempt to produce a false statement, it is not admissible in evidence. *People v. McCullough,* 81 Mich., 25.